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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DISTRICT**

LARSON ARCHERY COMPANY, a Utah
corporation,

Plaintiff,

v.

ELITE OUTDOORS, LLC, a Delaware
limited liability company,

Defendant.

ATTORNEYS' PLANNING REPORT

(DUCivR 16-1)

Case No. 1:15-cv-00044

Honorable Dale Kimball

Pursuant to DUCivR 16-1, the parties report as follows:

1. PRELIMINARY MATTERS:

- a. The nature of the claims and affirmative defenses is: patent infringement, with affirmative defenses and counterclaims including patent invalidity and non-infringement.
- b. This case is not referred to a magistrate judge.
- c. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held telephonically on June 18, 2015. The following counsel attended: James Farmer (Plaintiff); Michael A. Oropallo, Jason C. Halpin, Michael R. McCarthy, and Sarah E. Jelsema (Defendant).
- d. The parties do not request an initial pretrial scheduling conference with the court prior to entry of the scheduling order.
- e. The parties will exchange by 07/03/15 (Plaintiff) and 07/10/15 (Defendant) the initial disclosures required by Rule 26(a)(1).
- f. Pursuant to Fed. R. Civ. P. 5(b)(2)(D), the parties agree to receive all items required to be served under Fed. R. Civ. P. 5(a) by either (i) notice of electronic filing, or (ii) e-mail transmission. Such electronic service will constitute service and notice of entry as required by those rules. Any right to service by USPS mail is waived.

2. DISCOVERY PLAN:

- a. Discovery is necessary on the following subjects: all claims, counterclaims and affirmative defenses, including patent infringement and invalidity.
- b. Discovery Phases. Discovery will be conducted in a single phase.
- c. Discovery methods and limitations. The parties shall abide by the discovery methods and limitations stated in the Federal Rules of Civil Procedure and as set forth in the scheduling orders provided for under the Local Patent Rules.
- d. Discovery of electronically stored information should be handled by agreeing to negotiate a stipulation governing electronically stored information in good faith in the event both parties anticipate producing more than one thousand pages of

electronically stored information. Alternatively, the parties shall handle discovery of electronically stored information as provided in Fed. R. Civ. P. 34(b)(2)(E).

- e. The parties have agreed to an order regarding claims of privilege or protection as trial preparation material asserted after production, as provided in Fed. R. Civ. P. 26(b)(5)(B), but have agreed that a privilege log is only required for information and communications that occurred prior to the commencement of this action. The parties have agreed to negotiate in good faith a stipulated protective order to replace the Court's Standard Protective Order otherwise applicable in this case.
- f. Last day to file written discovery and last day to file standard motions to compel prior to claim construction will occur on 02/13/16 and 03/14/16, respectively.
- g. Close of fact discovery prior to claim construction will occur on 03/14/16, subject to relief provided through motions to compel.
- h. Final date for supplementation of disclosures under Rule 26 (a)(3) and of discovery under Rule 26 (e): 45 days prior to close of fact discovery.

3. AMENDMENT OF PLEADINGS AND ADDITION OF PARTIES:

- a. The cutoff dates for filing a motion to amend pleadings is 09/28/15.
- b. The cutoff dates for filing a motion to join additional parties is 09/28/15.

(NOTE: Establishing cutoff dates for filing motions does not relieve counsel from the requirements of Fed.R.Civ.P. 15(a)).

4. EXPERT REPORTS:

Reports from experts under Rule 26(a)(2) will be submitted on:

Parties bearing burden of proof: Post Claim Construction (PCC) Day 28/Week 4.

See Local Patent Rules, Appendix A.

Response: PCC Day 56/Week 8. *See Local Patent Rules, Appendix A.*

5. OTHER DEADLINES:

- a. Expert Discovery cutoff: PCC Day 91/Week 13. *See Local Patent Rules, Appendix A.*

- b. Deadline for filing dispositive or potentially dispositive motions after claim construction: PCC Day 119/Week 17. *See* Local Patent Rules, Appendix A.
- c. Deadline for filing partial or complete motions to exclude expert testimony: 60 days before pretrial conference.

6. ADR/SETTLEMENT:

- a. The potential for resolution before trial is: unknown at this time.
- b. This case should not be referred to the court's alternative dispute resolution program for mediation.
- c. The parties intend to engage in private alternative dispute resolution.
- d. The parties will re-evaluate the case for settlement/ADR resolution on: 06/17/16.

7. TRIAL AND PREPARATION FOR TRIAL:

- a. The parties should have 30 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).
- b. This case should be ready for JURY trial by: *See* LPR 1.2.
- c. The estimated length of the trial is: 5 days.

Dated: June 19, 2015

Respectfully submitted,

VAN COTT, BAGLEY

/s/ James R. Farmer

John P. Ashton

James R. Farmer

Attorneys for Plaintiff

PARSONS BEHLE & LATIMER

/s/ Michael R. McCarthy

(with permission)

Michael R. McCarthy

Sarah E. Jelsema

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of June, 2015, a true and correct copy of this **ATTORNEYS' PLANNING REPORT** was electronically filed with the Clerk of the Court using the CM/ECF system, which sent notification of such filing to the following:

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